

REMOVAL TO FEDERAL COURT

STATE COURT RECORD

STATE OF INDIANA

BARTHOLOMEW COUNTY CIRCUIT COURT

03C01-2205-CT-002290

STEVEN LOWRY

v.

WALMART STORES, EAST, LP

This is not the official court record. Official records of court proceedings may only be obtained directly from the court maintaining a particular record.

Steven Lowry v. Wal-Mart Stores East, LP

Case Number	03C01-2205-CT-002290
Court	Bartholomew Circuit Court
Type	CT - Civil Tort
Filed	05/06/2022
Status	05/06/2022 , Pending (active)

Parties to the Case

Defendant Wal-Mart Stores East, LP

Attorney

Lesley Ann Pfleging
#2685749, Lead, Retained

LEWIS & WAGNER LLP
1411 ROOSEVELT AVE STE 102
INDIANAPOLIS, IN 46201
317-237-0500(W)

Attorney

Asia Larvone Ellis
#3682049, Retained

1411 Roosevelt Avenue
Suite 102
Indianapolis, IN 46201
317-237-0500(W)

Plaintiff Lowry, Steven

Attorney

Brandon W. Smith
#2816522, Retained

Morgan & Morgan
426 Bank Street, Suite 300
New Albany, IN 47150
812-670-3313(W)

Chronological Case Summary

05/06/2022 **Case Opened as a New Filing**

05/06/2022 **Appearance Filed**

Appearance for Plaintiff

For Party: Lowry, Steven
File Stamp: 05/06/2022

05/06/2022 Complaint/Equivalent Pleading Filed

Complaint

Filed By: Lowry, Steven

File Stamp: 05/06/2022

05/06/2022 Subpoena/Summons Issued

Summons to Defendant

Party: Lowry, Steven

File Stamp: 05/06/2022

05/17/2022 Service Returned Served (E-Filing)

Proof of Service

Filed By: Lowry, Steven

File Stamp: 05/17/2022

05/24/2022 Appearance Filed

Appearance of Lesley A. Pfleging and Asia L. Ellis

For Party: Wal-Mart Stores East, LP

File Stamp: 05/24/2022

05/24/2022 Jury Trial Demand Filed

Jury Demand

Filed By: Wal-Mart Stores East, LP

File Stamp: 05/24/2022

05/24/2022 Motion for Enlargement of Time Filed

Motion for Enlargement of Time to File Responsive Pleading

Filed By: Wal-Mart Stores East, LP

File Stamp: 05/24/2022

05/24/2022 Order Granting Motion for Enlargement of Time

Judicial Officer: Benjamin, Kelly S

Order Signed: 05/24/2022

05/25/2022 Automated ENotice Issued to Parties

Order Granting Motion for Enlargement of Time ---- 5/24/2022 : Asia Larvone Ellis;Brandon W. Smith;Lesley Ann Pfleging

Financial Information

* Financial Balances reflected are current representations of transactions processed by the Clerk's Office. Please note that any balance due does not reflect interest that has accrued – if applicable – since the last payment. For questions/concerns regarding balances shown, please contact the Clerk's Office.

Lowry, Steven

Plaintiff

Balance Due (as of 05/31/2022)

0.00

Charge Summary

Description	Amount	Credit	Payment
Court Costs and Filing Fees	157.00	0.00	157.00

Transaction Summary

Date	Description	Amount
05/06/2022	Transaction Assessment	157.00
05/06/2022	Electronic Payment	(157.00)

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STATE OF INDIANA) BARTHOLOMEW CIRCUIT/SUPERIOR COURT
) SS: 03C01-2205-CT-002290
COUNTY OF BARTHOLOMEW) CAUSE NO.

STEVEN LOWRY)
)
Plaintiff)
)
v.)
)
WAL-MART STORES EAST LP)
)
Defendant)

APPEARANCE BY ATTORNEY IN CIVIL CASE

This Appearance Form must be filed on behalf of every party in a civil case.

1. The party on whose behalf this form is being filed is:
Initiating X Responding _____ Intervening _____; and

the undersigned attorney and all attorneys listed on this form now appear in this case for the following parties:

Name of party Steven Lowry, Plaintiff

Address of party (see Question # 6 below if this case involves a protection from abuse order, a workplace violence restraining order, or a no-contact order)

Telephone # of party _____

FAX: _____

Email Address: _____

(List on a continuation page additional parties this attorney represents in this case.)

2. Attorney information for service as required by Trial Rule 5(B)(2)

Name: Brandon W. Smith Atty Number: #28165-22

Address: Morgan & Morgan, 426 Bank Street, Suite 300, New Albany, IN 47150

Phone: (812) 670-3313

FAX: (812) 850-6875

Email Address: brandonsmith@forthepeople.com

(List on continuation page additional attorneys appearing for above party)

3. This is a CT case type as defined in administrative Rule 8(B)(3).
4. I will accept service from other parties by:
FAX at the above noted number: Yes ____ No X
Email at the above noted number: Yes ____ No X
5. This case involves child support issues. Yes ____ No X *(If yes, supply social security numbers for all family members on a separately attached document filed as confidential information on **light green paper**. Use Form TCM-TR3.1-4.)*
6. This case involves a protection from abuse order, a workplace violence restraining order, or a no – contact order. Yes ____ No X *(If Yes, the initiating party must provide an address for the purpose of legal service but that address should not be one that exposes the whereabouts of a petitioner.)* The party shall use the following address for purposes of legal service:

____ Attorney's address
____ The Attorney General Confidentiality program address
(contact the Attorney General at 1-800-321-1907 or e-mail
address is **confidential@atg.in.gov**).
____ Another address (provide)

7. This case involves a petition for involuntary commitment. Yes ____ No X
8. If Yes above, provide the following regarding the individual subject to the petition for involuntary commitment:
- a. Name of the individual subject to the petition for involuntary commitment if it is not already provided in #1 above:

- b. State of Residence of person subject to petition: _____
- c. At least one of the following pieces of identifying information:

- (i) Date of Birth _____
- (ii) Driver's License Number _____
State where issued _____ Expiration date _____
- (iii) State ID number _____
State where issued _____ Expiration date _____
- (iv) FBI number _____
- (v) Indiana Department of Corrections Number

- (vi) Social Security Number is available and is being provided in an
attached confidential document Yes ____ No ____

9. There are related cases: Yes ____ No X (If yes, list on continuation page.)

10. Additional information required by local rule:

11. There are other party members: Yes ____ No X (If yes, list on continuation page.)

12. This form has been served on all other parties and Certificate of Service is attached:
Yes ____ No X

Respectfully submitted,

s/ Brandon W. Smith

Brandon W. Smith #28165-22

Morgan & Morgan

426 Bank Street, Suite 300

New Albany, IN 47150

(812) 670-3313 (t)

(812) 850-6875 (f)

brandonsmith@forthepeople.com

Counsel for Plaintiff

STATE OF INDIANA)
COUNTY OF BARTHOLOMEW) SS: 03C01-2205-CT-002290
CAUSE NO.
STEVEN LOWRY)
Plaintiff)
v.)
WAL-MART STORES EAST, LP)
Defendant)

COMPLAINT AND JURY DEMAND

Plaintiff, Steven Lowry, by counsel, states as follows for his Complaint:

1. At all relevant times, Plaintiff Steven Lowry permanently resided and was domiciled in Brown County, Indiana.
2. At all relevant times, Defendant Wal-Mart Stores East, LP, was an Indiana Foreign Limited Partnership with a principal office located at 702 SW 8th Street, Bentonville, AR 72716 that owned, controlled, operated, and maintained a Wal-Mart Supercenter located at 2025 Merchant Mile, Columbus, IN, 47201, through its owners, managers, employees, agents and assigns.
3. This lawsuit alleges a tort injury that occurred in Bartholomew County, Indiana, making this Court a proper and preferred venue to hear the action.
4. On or about December 20, 2021, Steven Lowry was a business invitee at Defendant's store located at 2025 Merchant Mile, Columbus, IN, 47201.
5. While shopping with his son in Defendant's store one of Defendant's employees negligently and carelessly hit Mr. Lowry with a stock cart.

6. As a direct and proximate result of Defendant's negligence, Plaintiff sustained serious bodily injury.

7. As a direct and proximate result of his injuries, Plaintiff incurred or expects to incur the following: past and future medical bills and related expenses and past and future pain and suffering, both physical and mental.

WHEREFORE, Plaintiff demands judgment against Defendant, compensatory damages, as shown by evidence, for the following: past and future medical bills and related expenses, and past and future pain and suffering, both physical and mental.

Plaintiff further demands **TRIAL BY JURY**, judgment interest (where allowed by law), costs and expenses (where allowed by law), and any other relief the Court believes just and proper.

Respectfully submitted,

s/ Brandon W. Smith
Brandon W. Smith #28165-22
Morgan & Morgan
426 Bank Street, Suite 300
New Albany, IN 47150
(812) 670-3313 (t)
(812) 850-6875 (f)
brandonsmith@forthepeople.com
Counsel for Plaintiff

JURY DEMAND

Pursuant to TR 38(B), Plaintiff demands trial by jury on all triable issues.

s/ Brandon W. Smith
Counsel for Plaintiff

STATE OF INDIANA) BARTHOLOMEW CIRCUIT/ SUPERIOR COURT
) SS: 03C01-2205-CT-002290
COUNTY OF BARTHOLOMEW) CAUSE NO.:

STEVEN LOWRY)
)
Plaintiff,)
)
v.)
)
WAL-MART STORES EAST, LP)
)
Defendant)
)

SUMMONS

THE STATE OF INDIANA TO: C T Corporation System
344 North Senate Avenue
Indianapolis, IN 46204

You have been sued by the Plaintiff in the Court stated above.

The nature of the suit against you is stated in the complaint, which is attached to this summons. It also states the demand, which the Plaintiff has made against you.

You or your attorney must answer the petition in writing and your written answer must be filed with the Court within twenty (20) days after you receive this summons or within twenty-three (23) days if you received this summons by mail, or a judgment will be entered against you for what the Plaintiff has demanded in the attached petition.

If you deny the demand, or if you have a claim against the Plaintiff, you must assert it in your written answer.

It is suggested that you immediately consult an attorney of your choice regarding this matter.

The following manner of service of summons is hereby designated:

5/6/2022
Dated: _____, 2022

CERTIFIED MAIL

Shari J. Lenz
CLERK, BARTHOLOMEW CIRCUIT/ SUPERIOR COURT



STATE OF INDIANA)	BARTHOLOMEW CIRCUIT COURT
) SS:	
COUNTY OF BARTHOLOMEW)	CAUSE NO. 03C01-2205-CT-002290
STEVEN LOWRY)	
)	
Plaintiff)	
)	
v.)	
)	
WAL-MART STORES EAST, LP)	
)	
)	
Defendant)	

NOTICE OF PROOF OF SERVICE

Plaintiff, by counsel, hereby gives notice that a copy of the Appearance, Summons, and Complaint were served via United States certified mail, return receipt requested to the following registered agent with service perfected on the noted date:

CT Corporation System
 344 North Senate Avenue
 Indianapolis, IN 46204
May 12, 2022

The signed certified mail return receipt green card is attached to this Notice as Exhibit A.

Respectfully submitted,

s/ Brandon W. Smith
 Brandon W. Smith #28165-22
 Morgan & Morgan
 426 Bank Street, Suite 300
 New Albany, IN 47150
 (812) 670-3313 (t)
 (812) 850-6875 (f)
 brandonsmith@forthepeople.com
Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was filed through the Court's electronic filing system on the 17th day of May 2022, and United States regular mail to the following:

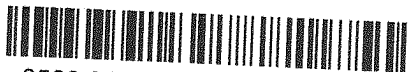
CT Corporation System
344 North Senate Avenue
Indianapolis, IN 46204
Registered Agent for Defendant

s/ Brandon W. Smith
Counsel for Plaintiff

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

CT Corporation System
344 North Senate Ave.
Indianapolis, IN 46204



9590 9402 6921 1104 0428 39

2. Article Number (Transfer from service label)

7021 1970 0000 9988 5792

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

Pat Lums

C. Date of Delivery

5/11

D. Is delivery address different from item 1?

If YES, enter delivery address below:

☐ Yes☐ No

3. Service Type

☐ Adult Signature☐ Adult Signature Restricted Delivery☒ Certified Mail®☐ Certified Mail Restricted Delivery☐ Collect on Delivery☐ Collect on Delivery Restricted Delivery

Mail

Mail Restricted Delivery

(00)

☐ Priority Mail Express®☐ Registered Mail™☐ Registered Mail Restricted Delivery☐ Signature Confirmation™☐ Signature Confirmation Restricted Delivery

IN THE BARTHOLOMEW COUNTY CIRCUIT COURT

STATE OF INDIANA

STEVEN LOWRY,)	
)	
Plaintiff,)	
)	CAUSE NO.: 03C01-2205-CT-002290
v.)	
)	
WALMART STORES EAST, LP.,)	
)	
Defendant.)	
)	
)	

E-FILING APPEARANCE BY ATTORNEY IN CIVIL CASE

Party Classification: Initiating ____ Responding X Intervening ____

1. The undersigned attorney and all attorneys listed on this form now appear in this case for the following party member(s):

WALMART STORES EAST, LP

2. Applicable attorney information for service as required by Trial Rule 5(B)(2) and for case information as required by Trial Rules 3.1 and 77(B) is as follows:

Lesley A. Pfleging	Attorney #26857-49A
Asia L. Ellis	Attorney #36820-49
LEWIS WAGNER, LLP	Phone: (317) 237-0500
1411 Roosevelt Avenue, Suite 102	Fax: (317) 630-2790
Indianapolis, IN 46202	lpfleging@lewiswagner.com
	aellis@lewiswagner.com

IMPORTANT: Each attorney specified on this appearance:

- (a) certifies that the contact information listed for him/her on the Indiana Supreme Court Roll of Attorneys is current and accurate as of the date of this Appearance;
- (b) **acknowledges that all orders, opinions, and notices from the court in this matter that are served under Trial Rule 86(G) will be sent to the attorney at the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information listed above for the attorney;** and
- (c) understands that he/she is solely responsible for keeping his/her Roll of

Attorneys contact information current and accurate, see Ind. Admis. Disc. R. 2(A).

Attorneys can review and update their Roll of Attorneys contact information on the Courts Portal at <http://portal.courts.in.gov>.

3. There are other party members: Yes ____ No X (If yes, list on continuation page.)
4. *If first initiating party filing this case*, the Clerk is requested to assign the case the following Case Type under Administrative Rule 8(b)(3): N/A
5. I will accept service by fax at the above noted number: Yes ____ No X
Counsel would represent to the court that fax service is acceptable in emergency situations.
6. This case involves support issues. Yes ____ No X (If yes, supply social security numbers for all family members on continuation page.)
7. There are related cases. Yes ____ No X (If yes, list on continuation page.)
8. This form has been served on all other parties. Certificate of Service is attached.
Yes X No ____
9. Additional information required by local rule:

LEWIS WAGNER, LLP

By: /s/Lesley A. Pfleging
LESLEY A. PFLEGING, #26857-49A
ASIA L. ELLIS, #36820-49
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2022, a copy of the foregoing was served on the following parties electronically by using the Court's IEFS System and U.S. Postal Service, pre-paid delivery for those parties not yet registered:

Brandon W. Smith
MORGAN & MORGAN
426 Bank Street, Suite 300
New Albany, IN 47150
brandonsmith@forthepeople.com
Counsel for Plaintiff

By: /s/ Lesley A. Pfleging
LESLEY A. PFLEGING

LEWIS WAGNER, LLP
1411 Roosevelt Avenue
Suite 102
Indianapolis, IN 46201
Telephone: 317-237-0500
Facsimile: 317-630-2790
lpfleging@lewiswagner.com
aellis@lewiswagner.com

IN THE BARTHOLOMEW COUNTY CIRCUIT COURT

STATE OF INDIANA

STEVEN LOWRY,)	
)	
Plaintiff,)	
)	CAUSE NO.: 03C01-2205-CT-002290
v.)	
)	
WALMART STORES EAST, LP.,)	
)	
Defendant.)	
)	
)	

JURY DEMAND

Defendant, Walmart Stores East, LP., by counsel, pursuant to Trial Rule 38(B) of the Indiana Rules of Trial Procedure, respectfully requests that this cause of action be tried by a jury.

LEWIS WAGNER, LLP

By: /s/Lesley A. Pfleging
 LESLEY A. PFLEGING, #26857-49A
 ASIA L. ELLIS, #36820-49
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2022, a copy of the foregoing was served on the following parties electronically by using the Court's IEFS System and U.S. Postal Service, pre-paid delivery for those parties not yet registered:

Brandon W. Smith
MORGAN & MORGAN
426 Bank Street, Suite 300
New Albany, IN 47150
brandonsmith@forthepeople.com
Counsel for Plaintiff

By: /s/ Lesley A. Pfleging
LESLEY A. PFLEGING

LEWIS WAGNER, LLP
1411 Roosevelt Avenue
Suite 102
Indianapolis, IN 46201
Telephone: 317-237-0500
Facsimile: 317-630-2790
lpfleging@lewiswagner.com
aellis@lewiswagner.com

IN THE BARTHOLOMEW COUNTY CIRCUIT COURT

STATE OF INDIANA

STEVEN LOWRY,)	
)	
Plaintiff,)	
)	CAUSE NO.: 03C01-2205-CT-002290
v.)	
)	
WALMART STORES EAST, LP.,)	
)	
Defendant.)	
)	
)	

**DEFENDANT'S MOTION FOR ENLARGEMENT OF
TIME TO FILE RESPONSIVE PLEADING**

Defendant, Walmart Stores East, LP, by counsel, moves the Court for an enlargement of time of thirty (30) days in which to answer or otherwise respond to Plaintiff's Complaint for Damages, up to and including July 1, 2022, and in support thereof would show the Court as follows:

1. That a responsive pleading is due on or about June 1, 2022 and said time has not expired.
2. No prior enlargements of time have been requested.
3. Undersigned counsel has only recently been retained and said additional time is necessary to enable counsel to confer with their client to review the facts and prepare an appropriate response.

WHEREFORE, Defendant, Walmart Stores East, LP., by counsel, prays for an additional thirty (30) days in which to answer or otherwise respond to Plaintiff's Complaint for Damages, through and including July 1, 2022, and for all other just and proper relief in the premises.

LEWIS WAGNER, LLP

By: /s/Lesley A. Pfleging
LESLEY A. PFLEGING, #26857-49A
ASIA L. ELLIS, #36820-49
Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 24, 2022, a copy of the foregoing was served on the following parties electronically by using the Court's IEFS System and U.S. Postal Service, pre-paid delivery for those parties not yet registered:

Brandon W. Smith
MORGAN & MORGAN
426 Bank Street, Suite 300
New Albany, IN 47150
brandonsmith@forthepeople.com
Counsel for Plaintiff

By: /s/ Lesley A. Pfleging
LESLEY A. PFLEGING

LEWIS WAGNER, LLP
1411 Roosevelt Avenue
Suite 102
Indianapolis, IN 46201
Telephone: 317-237-0500
Facsimile: 317-630-2790
lpfleging@lewiswagner.com
aellis@lewiswagner.com

IN THE BARTHOLOMEW COUNTY CIRCUIT COURT

STATE OF INDIANA

STEVEN LOWRY,

Plaintiff,

V.

WALMART STORES EAST, LP.,

Defendant.

CAUSE NO.: 03C01-2205-CT-002290

ORDER

Defendant, Walmart Stores East, LP, by counsel, files herein their Motion for Enlargement of Time in which to respond to Plaintiff's Complaint for Damages and/or any discovery including Request for Admissions that may have been filed with the Summons and Complaint.

And the Court being duly advised, now grants said Motion.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Defendant, Walmart Stores East, LP, is granted a period of time through and including July 1, 2022, in which to answer or otherwise respond to Plaintiff's Complaint for Damages and/or any discovery including Request for Admissions that may have been filed with the Summons and Complaint.

Dated: **May 24, 2022**

JUDGE, CIRCUIT COURT FOR
BARTHOLOMEW COUNTY

Distribution:

Lesley A. Pfleging
Asia Ellis
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1411 Roosevelt Avenue
Suite 102
Indianapolis, IN 46201
lpfleging@lewiswagner.com
aellis@lewiswagner.com

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